IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2541 of 2005
Date of Decision: 11.9.2007

Sajjan Singh and others ....Appellants

Versus

Satnam Singh ...Respondent

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri Amit Jain, Advocate, for the appellants.

HEMANT GUPTA, J.

The defendants are in second appeal aggrieved against the judgment and decree passed by the Courts below, whereby the suit for declaration that the property situated at village Dera Mir Maran, is the joint property of the parties, was decreed.

The plaintiff has claimed the declaration alleging therein that he is joint owner and in possession of the suit land situated in village Dera Mir Maran and in village Talania.

Both the Courts have recorded a concurrent finding of fact that the land situated in village Talania was purchased by the plaintiff to the extent of 5/14th share and by his father Takhat Singh in respect of the remaining 9/14th share of the land vide registered sale deed dated Exhibit DW-6/A and, therefore, it is the self acquired property of the plaintiff and Takhat Singh, the predecessor-in-interest of the parties. It was found that the property situated at village Dera Mir Maran is the property

allotted to Takhat Singh, in lieu of the land held by grand-father of the parties in the area now falling in Pakistan. Exhibits P.22 to P.25 are the documents in respect of the allotment of the land to Takhat Singh. Keeping in view the subsequent Jamabandis (after consolidation) of the land situated at village Dera Mir Maran, it was found that Takhat Singh was allotted the property in dispute in lieu of the land situated in village Balgan Tehsil Daska, now in Pakistan. It was also found that in respect of the the property in village Talania, Takhat Singh has executed a valid Will Exhibit D.1 in favour of the present appellants.

In the present appeal, learned counsel for the appellants has vehemently argued that the plaintiff has admitted as his own witness that he got separated from his father in the year 1972 and, therefore, it is apparent that the land in village Dera Mir Maran was partitioned. It was thereafter that the plaintiff purchased the land along with his father in village Talania on 11.6.1974. It was on account of family settlement between the parties, the plaintiff separated and the land was purchased by the father in lieu of his share in other property.

However, it may be noticed that there is no issue in respect of family settlement now reflected to have taken place in the year 1972. The statement of the plaintiff is to the effect that he was separated from his father. The separation of the plaintiff from his father is not an incidence of family settlement of the joint family property. In the absence of any evidence of family settlement, the statement of the plaintiff in respect of his separation cannot be construed as severance of the status of the plaintiff as a member of the Joint Hindu Family, in the year 1972. Looking from another angle, if the parties are separate, there is no reason as to why

plaintiff and his father shared jointly purchased land.

Both the Courts have recorded concurrent findings of fact that the property at village Dera Mir Maran is the joint Hindu Family Property of the parties and, therefore, have rightly granted declaration in favour of the plaintiff.

I do not find any patent illegality or irregularity in the findings recorded by the Courts below, which may give rise to any substantial question of law in the present appeal. Hence, the present appeal is dismissed.

11-09-2007 (HEMANT GUPTA)
ds JUDGE